



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

October 7, 2020

VIA EMAIL

Rafael A. Toro Ramírez
TORO & ARSUAGA, LLC
P.O. Box 11064
San Juan, Puerto Rico 00922-1064
rtoro@toro-arsuaga.com

Re: EPA Response to Proteco's September 30, 2020 Letter for the PROTECO Superfund Site in Peñuelas, Puerto Rico

Dear Mr. Toro Ramírez:

As you know, the U.S. Environmental Protection Agency ("EPA") has previously notified certain parties of their status as potentially responsible parties ("PRPs") for the PROTECO Superfund Site ("Site") under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675. By letter dated June 28, 2019, EPA transmitted special notice letters to the identified PRPs informing you that EPA sought to facilitate a settlement for the performance of a remedial investigation and feasibility study ("RI/FS") at the Site.

On July 31, 2019, your client, Proteco, submitted a proposal to conduct a preliminary investigation but not a complete RI/FS, which included maintenance and certain post-closure care activities, at the Site, and that proposal included using monies from the post-closure trust fund required pursuant to an amended consent decree in U.S. v. Proteco, et al., Civil No. 86-1698, entered on November 20, 1997. On August 27, 2019, your client reiterated its request that EPA authorize the use of monies in the post-closure trust fund for the purpose of initiating maintenance activities at the Site. On October 24, 2019, EPA explained in a letter to your client that the monies in the post-closure trust fund may only be accessed to reimburse persons for EPA-approved post-closure expenditures at the Site. Based on your client's submissions, EPA understood that your client was not willing to fund an RI/FS as envisioned by EPA or any other activities at the Site unless it first obtained access to monies held in the post-closure trust fund.

Since that time, EPA has engaged in negotiations with a group of PRPs that were willing to perform an RI/FS in the manner that EPA requested in its June 2019 letter. That commitment has been memorialized in an administrative settlement agreement and order on consent ("AOC") and a corresponding statement of work ("SOW") for the performance of an RI/FS at the Site. On September 24, 2020, EPA provided your client, as well as other PRPs at the Site, the opportunity to sign the aforementioned AOC.

On September 30, 2020, EPA received an email communication from you indicating that your client could not agree to signing the AOC at that time. Thereafter, EPA finalized the AOC with nine PRPs at the Site. The final executed AOC is enclosed for your information.

If you have any questions, please contact me at (212) 637-3197 or at Leshak.Andrea@epa.gov.

We appreciate your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Leshak', with a stylized flourish at the end.

Andrea Leshak
Assistant Regional Counsel

Cc: David Schneider, Esq. (via email)
Jose Cepeda, Esq. (via email)

Enclosure